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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,902	05/04/2001	Peter A. Barany	NORT0094US(12612RRUS02U)	8717
7590 09/08/2005			EXAMINER	
Dan C. Hu TROP, PRUNER & HU, P.C. Ste. 100 8554 Katy Freeway Houston, TX 77024			PHAM, BRENDA H	
			ART UNIT	PAPER NUMBER
			2664	
DATE MAILED: 09/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,902

Applicant(s)

BARANY ET AL.

Examiner

Brenda Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-11 and 13-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-11, 13-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Claims 2-11, 13-26 are pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-11, 13-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dangi et al (US 5,231,492) in view of Liu et al (US 6,434,139 B1).

Claims 4, 5, 9, 15, 16 and 20-23, Dangi et al discloses an article, system and method of communication comprising: determining one of plural rates to code data for communication over a network; encapsulating the data in a packet having a quality-of-service indicator field based on the determined one of plural rates (FIG. 8, 9 shows the audio frame format of different bit numbers, col. 3, lines 5-15).

{Dangi et al teach according to column 3, lines 5-15 an adaptive type coding is performed for outputting the audio data as a plurality of code sounds with different coding bit rates. The single most suitable coding bit rate is selected in accordance with the content of the transmission, so that audio quality

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does fluctuate, but the sound is never interrupted and transmission can be performed at the quality of the picture and sound.”}

Dangi et al further teach a controller adapted to store each unit of data in one of the plurality of queues based on the quality of service indicator value in the unit of data (see figure 25, col. 10, lines 18-21).

Although Dangi et al does not teach transmitting the packet over a wireless link and encapsulating the data in an Internet Protocol packet. This limitation is well known in the art and is teach by Liu et al (see abstract).

Therefore, it would have been obvious to implement the method of Dangi et al in a wireless network to allow real-time information to communication across wireless networks.

Claims 2-3, 6, 10-11, 13, 17-19 and 22, Dangi et al teach setting a first value for the quality of service indicator field if a first rate is determined; and setting a second value for the quality of service indicator field if a second rate is determined (see figure 8, 9 and col. 8, lines 10-20).

Claims 7, 8, 14 and 24, Dangi et al further teach determining one of plural rates to code data comprises determining one of plural rate to code real-time data (Dangi et al teach a system and method for coding and decoding audio and video, see figure 25).

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Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

August 23, 2005

Brenda Pham

Brenda A. Pham